

28 Am. Jur. 2d Estoppel and Waiver § 177

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Estoppel and Waiver

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Part One. Estoppel

V. Practice and Procedure

D. Trial; Appellate Review

2. Role of Trier of Fact and Finder of Law

§ 177. Role of court as trier of law

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West's Key Number Digest

West's Key Number Digest, [Estoppel](#)  119

It is the court's duty to charge and define the law applicable to estoppel in a jury trial¹ although the jury as the finder of fact generally determines whether the facts of the particular case constitute estoppel.² The court also may decide whether the facts determined by the jury are susceptible of the inferences attributed to them.³

When only one inference can reasonably be drawn from the evidence, the question of estoppel is one of law,⁴ and it is the court's role to apply the doctrine of estoppel to the facts of the case.⁵

Practice Tip:

In some instances, estoppel may be an equitable issue that must be determined by a judge rather than by a jury⁶ even when the defense is asserted in a case at law.⁷

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Footnotes

- 1 [Independent Gas & Oil Co. v. T.B. Smith Co.](#), 51 Idaho 710, 10 P.2d 317 (1932); [Bay Petroleum Corp. v. May](#), 1953 OK 370, 264 P.2d 734 (Okla. 1953).
- 2 As to the role of the trier of fact, including the court in a nonjury trial, see [§ 176](#).
As to jury instructions and charges, see [§ 179](#).
- 3 [Nesbitt v. Erie Coach Co.](#), 416 Pa. 89, 204 A.2d 473 (1964).
- 4 As to estoppel as an issue of fact or law, see [§ 173](#).
- 5 [Creech v. Melnik](#), 347 N.C. 520, 495 S.E.2d 907 (1998).
- 6 [Black v. Lexington School Dist. No. 2](#), 327 S.C. 55, 488 S.E.2d 327 (1997).
- 7 [Holy Loch Distributors, Inc. v. Hitchcock](#), 332 S.C. 247, 503 S.E.2d 787 (Ct. App. 1998), *rev'd on other grounds*, 340 S.C. 20, 531 S.E.2d 282 (2000).

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